समक्ष माननीय राज्य प्रशासनिक अधिकरण मध्य प्रदेश, रायपुर छ.ग.

WP(S) 4921/05

ओ. ए. क्रमांक : /2002

आवेदक : मोहनलाल पटेल, आयु 50 वर्ष
आत्मज श्री अभिमन्यु पटेल,
सहायक शिक्षक,
प्राथ. शाला, बिजराभाठा,
विकासखंड – बसना,
जिला – महासमुंद (छ.ग.)

विरुद्ध

अनावेदकगण : (1) छत्तीसगढ़ शासन,
द्वारा : प्रमुख सचिव,
आदिम जाति कल्याण विभाग,
डी.के.एस. भवन,
रायपुर (छ.ग.)

(2) जिला शिक्षा अधिकारी,
जिला – महासमुंद (छ.ग.)

(3) प्राचार्य,
शासकीय हाईस्कूल बिछिया,
जिला – महासमुंद (छ.ग.)

Attested
26/7
REGISTRAR

माननीय अधिकरण के आदेशानुसार
(दिनांक 25/7/02) संशोधित
26/7/02

(4) संभागीय संयुक्त संचालक, कोष, लेखा एवं पेंशन रायपुर (छ.ग.)

आवेदन पत्र अंतर्गत धारा 19 मध्यप्रदेश राज्य प्रशासनिक अधिनियम.

HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (s) No. 4811 of 2005

Petitioner : Kishore Kumar Sharma

Versus

Respondents : State of Chhattisgarh and others

And

W. P. (s) No. 4921 of 2005

Petitioner : Mohan Lal Patel

Versus

Respondents : State of Chhattisgarh and others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Shri S.K. Thomas, Advocate for the Petitioners.

Shri V.V.S. Moorthy, Deputy Advocate General with Smt. Anju Ahuja, Deputy Govt. Advocate for the State/respondents.

ORDER

(31st October, 2006)

1. The petitioners are working as Upper Division Teachers/ Assistant Teachers in the government schools. In the course of their services as Upper Division Teachers/ Assistant Teachers, the petitioners have obtained B. Ed./B.T.I examination certificates on their own expenses before 1.3.1999.

2. The petitioners have acquired B.Ed./B.T.I. qualifications before 1.3.1999 in the year 1979 and 1992 respectively. The petitioners were initially granted two advance increments but the same was withdrawn by orders dated 15.01.2002 and 18.02.2002 (Annexure A-1) respectively.

3. Writ Petition (S) No.s 4811/2005 and 4921/2005 are being disposed of by this common order as the facts and question of law involved in these petitions are common.

4. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed. Examination Certificate on their own expenses, are covered by the circular dated 24.12.98 issued by the State Government of Madhya Pradesh.

5. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B. Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh Kumar Shrivastava Vs. State of M.P. & others passed in O.A. No. 1632/99, decided on 12.10.1999 wherein it is observed that the circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B. Ed. degree before 1.3.1999 is entitled to two advance increments.

6. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B. Ed. examination certificate before 1.3.1999. It is

further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

7. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly concedes and agrees with the averment made by learned counsel appearing for the petitioners.

8. Accordingly, the writ petitions are allowed in terms of the order passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired B. Ed. Examination Certificate on their own expenses as per the circulars dated 24.12.1998 and 1.3.1999 and further whether they have been paid two advance increments or not. No order as to costs.

9. A copy of this order be placed on record in connected matters.

Sd/-
Satish K. Agnihotri
Judge

Subhash